

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

KEASHA S. WOODRUFF,

Plaintiff,

v.

RESOLUTION GROUP,

Defendants.

Case No. 3:25-cv-05004-DGE

ORDER

This matter comes before the Court on plaintiff's motion to proceed *In Forma Pauperis* ("IFP") in regard to their proposed complaint (Dkt. 1-1). Dkt. 1. Plaintiff is proceeding without representation by counsel in this matter. This matter has been referred to the undersigned Magistrate Judge. *Mathews, Sec'y of H.E.W. v. Weber*, 423 U.S. 261 (1976); 28 U.S.C. § 636(b)(1)(B); Local Rule MJR 4(a). Considering deficiencies in the complaint discussed below, however, the undersigned will not direct service of the complaint at this time. On or before **March 10, 2025**, plaintiff is ORDERED to either (1) show cause why this cause of action should not be dismissed or (2) file an amended complaint addressing the deficient aspects of the proposed complaint.

A. Background

Plaintiff has filed a demand letter, but refers to it as a complaint against defendant Resolution Group under the Truth in Lending Act (15 U.S.C. § 1635), the Fair

1 Debt Collection Practices Act (15 U.S.C. § 1692), as well as state contract claims
2 based on the financing agreement for a 2020 Mini Cooper Hardtop and the
3 repossession of the vehicle on December 7, 2024. Dkt. 1-1.

4 DISCUSSION

5 The district court may permit indigent litigants to proceed IFP upon completion of
6 a proper affidavit of indigency. See 28 U.S.C. §1915(a). The court has broad discretion
7 in denying an application to proceed IFP. *Weller v. Dickson*, 314 F.2d 598 (9th Cir.
8 1963), *cert. denied* 375 U.S. 845 (1963).

9 The Court must subject each civil action commenced pursuant to 28 U.S.C. §
10 1915(a) to mandatory screening and order the *sua sponte* dismissal of any case that is
11 “frivolous or malicious,” “fails to state a claim on which relief may be granted,” or “seeks
12 monetary relief against a defendant who is immune from such relief.” 28 U.S.C. §
13 1915(e)(2)(B); *see also Calhoun v. Stahl*, 254 F.3d 845, 845 (9th Cir. 2001) (“[T]he
14 provisions of 28 U.S.C. § 1915(e)(2)(B) are not limited to prisoners.”); *Lopez v. Smith*,
15 203 F.3d 1122, 1126-27 (9th Cir. 2000) (en banc) (noting that 28 U.S.C. § 1915(e) “not
16 only permits but requires” the court to *sua sponte* dismiss an IFP complaint that fails to
17 state a claim). A claim is frivolous if “it ha[s] no arguable substance in law or fact.”
18 *Tripathi v. First Nat’l Bank & Trust*, 821 F.2d 1368, 1369 (9th Cir. 1987) (citing *Rizzo v.*
19 *Dawson*, 778 F.2d 527, 529 (9th Cir. 1985); *see also Franklin v. Murphy*, 745 F.2d
20 1221, 1228 (9th Cir. 1984).

21 A. Failure to State a Claim

22 An unrepresented plaintiff’s complaint is to be construed liberally; but – like any
23 other complaint – factual assertions must be sufficient to support a facially plausible
24
25

1 claim for relief. *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (citing *Bell Atlantic Corp. v.*
2 *Twombly*, 550 U.S. 544, 570 (2007)). A claim for relief is facially plausible when “the
3 plaintiff pleads factual content that allows the court to draw the reasonable inference
4 that the defendant is liable for the misconduct alleged.” *Iqbal*, 556 U.S. at 678.

5 Under Federal Rule of Civil Procedure (Fed R. Civ P.) 8(a), a complaint must
6 contain “a short and plain statement of the claim showing that the [plaintiff] is entitled to
7 relief.” Fed. R. Civ. P. 8(a). Plaintiff must allege a plausible set of facts that would show
8 he is entitled to any relief. *Iqbal*, 556 U.S. at 678. Mere conclusory statements in a
9 complaint and “formulaic recitation[s] of the elements of a cause of action” are not
10 sufficient. *Id.* at 681; *Chavez v. United States*, 683 F.3d 1102, 1108-09 (9th Cir. 2012).
11 The factual allegations of a complaint must be “enough to raise a right to relief above
12 the speculative level.” *Bell Atlantic Corp.*, 550 U.S. at 555. “Dismissal can be based on
13 the lack of a cognizable legal theory or the absence of sufficient facts alleged under a
14 cognizable legal theory.” *Ballistreri v. Pacifica Police Dept.*, 901 F.2d 696, 699 (9th Cir.
15 1990).

16 Unless it is absolutely clear that no amendment can cure the defects of a
17 complaint, a plaintiff who is unrepresented by counsel is entitled to notice of the
18 complaint’s deficiencies and an opportunity to amend prior to dismissal of the action.
19 See *Lucas v. Dep’t of Corr.*, 66 F.3d 245, 248 (9th Cir.1995). Leave to amend need not
20 be granted “where the amendment would be futile or where the amended complaint
21 would be subject to dismissal.” *Saul v. United States*, 928 F.2d 829, 843 (9th Cir. 1991).

1 Here plaintiff's proposed complaint consists of a demand letter and conclusory
2 statements that she was harmed. There are no allegations of facts showing the acts or
3 omissions that constituted the alleged violations of law. *See Iqbal*, 556 U.S. at 678.

4 For example, the demand letter that has been referred to as a complaint states
5 that "evidence suggests that the contract was converted into a financial instrument for
6 securitization or trading without my consent" (Dkt. 1-1 at 1) yet she does not assert facts
7 that would be proved by any such evidence. Plaintiff demands compliance, and states
8 that the failure to disclose the assignment or transfer of the contract violated 15 U.S.C.
9 § 1641(g) (Dkt. 1-1 at 1-3) but the proposed complaint does not allege specific
10 individuals acted in particular ways or failed to act.

11 Plaintiff states that the repossession of the car on December 7, 2024 violated
12 multiple laws but does not assert facts regarding any act or failure to act, or any
13 allegations about how any act or failure to act violated the laws she alleges have been
14 violated. The complaint states that defendant omitted facts about the financial practices
15 related to the contract and failed to honor the rescission notice but again does not
16 explain what actions were taken, or identify individuals who took such actions, or assert
17 that particular individuals took specific action or failed to act in a manner that would
18 amount to a violation of the law. Instead, plaintiff has filed a "notice" that she refers to as
19 "a formal and binding notice under federal and state law." Dkt. 1-1 at 3. There are
20 documents attached, and incorporated by reference. Dkt. 1-1 at 3, and Dkt. 1-3 (exhibits
21 to the complaint).

1 Plaintiff's proposed complaint does not contain sufficient factual allegations to
2 show that she is plausibly entitled to relief. *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009)
3 (citing *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007)).

4 CONCLUSION

5 Due to the deficiencies described above, the Court will not serve the Proposed
6 Complaint (Dkt. 1-1). If plaintiff intends to pursue this action, she must file an amended
7 complaint to cure, if possible, the deficiencies noted herein, **on or before March 10,**
8 **2025.**

9 The amended complaint will act as a complete substitute for the original
10 complaint, and not as a supplement. Any fact or cause of action alleged in the original
11 complaint that is not alleged in the amended complaint is waived. *Forsyth v. Humana,*
12 *Inc.*, 114 F.3d 1467, 1474 (9th Cir. 1997), *overruled in part on other grounds*, *Lacey v.*
13 *Maricopa Cnty.*, 693 F.3d 896 (9th Cir. 2012).

14 The Court will screen the amended complaint to determine whether plaintiff has
15 established that this Court has jurisdiction to hear her claim and whether it states a
16 claim for relief. If the amended complaint is not timely filed or fails to adequately
17 address the issues raised herein, the undersigned will recommend dismissal of this
18 action.

The Clerk is directed to re-note plaintiff's IFP application to March 10, 2025.

Dated this 10th day of February, 2025.

A handwritten signature in black ink, reading "Theresa L. Fricke". The signature is written in a cursive style with a horizontal line underneath.

Theresa L. Fricke
United States Magistrate Judge